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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA

3:20-cr-00203-JO

v.

**GOVERNMENT’S SENTENCING
MEMORANDUM**

ANDREW STEVEN FAULKNER,

Defendant.

INTRODUCTION

Defendant shined a high-powered green laser at a uniformed Federal Protective Officer while the officer was engaged in his official duties of providing security at the Mark O. Hatfield Courthouse. By plea agreement, the parties jointly recommend that the Court impose a three-year term of probation with a condition of 6 months home detention.

FACTUAL BACKGROUND

A. The Offense Conduct

In the early morning hours of July 5, 2020, defendant shined a high-power green laser light at a uniformed Federal Protective Officer, Adult Victim 1 (AV1), while AV1 was working as a member of the security team for the Mark O. Hatfield Courthouse. AV1 was struck by the green laser on his arm and in his eye. AV1 moved and was able to avoid prolonged exposure

and further strikes from defendant's laser. AV1 was able to maintain a visual on defendant and observed him continue to shine the laser in the direction of other officers. When officers approached defendant, he attempted to flee but was ultimately apprehended and the laser was located in his possession. The laser was marked as an SDLaser 303 and the label contained a danger warning that the device emitted radiation and to avoid direct eye exposure. AV1 suffered no serious injuries.

B. The Charge

On July 6, 2020 defendant made his initial appearance and was released on conditions. (ECF Nos. 5 and 6). On January 13, 2021 defendant pleaded guilty to a single count Information charging Assault on a Federal Officer. (ECF No. 19).

C. The Plea Agreement & Guideline Computations

Defendant agreed to plead guilty to one count of Assault on a Federal Officer. The government will, subject to the limitations set forth in the agreement, recommend that defendant receive a two-level reduction for acceptance of responsibility.

The government agrees with the following PSR computations:

Base Offense Level (USSG § 2A2.4):	10
Adjustments	
Physical Contact (USSG § 2A2.4(b)(1)(A))	+3
Acceptance of Responsibility (USSG § 3E1.1):	<u>-2</u>
Total Offense Level:	11

The government agrees with Probation's computation of zero criminal history points, putting defendant in Criminal History Category I.

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DISCUSSION

In accordance with the plea agreement, the parties recommend the Court impose a below guidelines sentence of a three-year term of probation with a condition of 6 months home detention. The parties' recommendation reflects the seriousness of the offense and takes into account the need to provide just punishment and afford adequate deterrence to criminal conduct while satisfying the requirement of 18 U.S.C. § 3553(a) as a "sentence sufficient, but not greater than necessary" to meet the purposes of § 3553(a)(2).

CONCLUSION

Based on the foregoing, the parties' jointly recommend that this the Court impose a three-year term of probation with a condition of 6 months home detention, subject to the standard conditions, plus the special conditions recommended by the Probation Office, and a \$25 fee assessment.

Dated: June 2, 2021.

Respectfully submitted,

SCOTT ERIK ASPHAUG
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/s/ Ashley R. Cadotte
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